

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ERNEST BOB SHUEMAKE, #2231044	§	
VS.	§	CIVIL ACTION NO. 6:18cv349
BOTIE HILLHOUSE, ET AL.	§	

ORDER OF DISMISSAL

Plaintiff Ernest Shuemade, a former inmate confined at within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The cause of action was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On July 2, 2021, Judge Mitchell issued a Report, (Dkt. #46), recommending that Plaintiff's civil rights lawsuit be dismissed, without prejudice, for Plaintiff's failure to prosecute his own case. A copy of this Report was sent to Plaintiff at his last-known address. To date, however, objections have not been filed. Moreover, as Judge Mitchell explained, Plaintiff has not communicated with the Court since February 2020.

Because objections to Judge Mitchell's Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

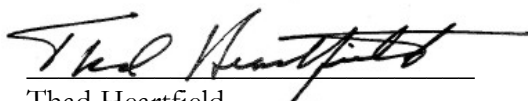
ORDERED that the Report of the United States Magistrate Judge, (Dkt. #46), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Plaintiff's civil rights action is **DISMISSED**, without prejudice, for Plaintiff's failure to prosecute his own case. Moreover, it is

ORDERED that the statute of limitations in this case is hereby **SUSPENDED** for a period of ninety (90) days from the date of entry of final judgment, with such suspension affecting claims which were not barred by limitations as of July 11, 2018—the date the original underlying complaint was signed. Finally, it is

ORDERED that any all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

SIGNED this the 19 day of July, 2021.


Thad Heartfield
United States District Judge